

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

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**RUSSELL GREGORY, III,  
in his capacity as Guardian of  
ASHLEY KEIKO GREGORY, a Minor  
the surviving heir of  
MARY L. FISHER, deceased,**

**Plaintiff,**

**Case No. 10-2335**

**vs.**

**UNITED STATES OF AMERICA,**

**Defendant.**

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**MOTION TO DISMISS AGAINST THE UNITED STATES OF AMERICA  
WITH PREJUDICE AND TO SUBSTITUTE IN ITS  
STEAD THE METROPOLITAN LIFE INSURANCE COMPANY,  
MEMORANDUM OF AUTHORITIES, AND  
CERTIFICATE OF CONSULTATION**

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Plaintiff being advised by the Assistant U. S. Attorney Gary Vanasek and by counsel for the Metropolitan Life Insurance Company (hereinafter "MetLife") that the proper named defendant in this action for breach of the life insurance policy for accidental death benefits is MetLife, hereby moves the Court for an Order Dismissing the United States of America with prejudice and substituting in its stead MetLife. Plaintiff relies upon F.R.C.P. Rule 21, which provides grounds for the relief sought herein.

Plaintiff has consulted with both opposing attorneys and understands that they consent to the relief sought herein. Further, Plaintiff has been advised that MetLife will enter its appearance without necessity of service of process. Upon entry of an order granting said relief, Plaintiff will file an Amended Complaint, amending his allegations to the extent necessary.

**CERTIFICATE OF CONSULTATION**

The undersigned certifies that she has consulted with Gary Vanasek, Assistant U. S. Attorney and with Patricia Head Moskal, Attorney for MetLife, and they will not oppose said motion.

Respectfully Submitted,

/s/ Kathleen L. Caldwell, #9916  
2670 Union Avenue Ext., Suite 110  
Memphis, TN 38112  
Telephone: (901) 458-4035  
Facsimile: (901) 458-4037

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been electronically filed and electronically sent to the following:

**Gary Vanasek, Esq.**  
**Assistant U. S. Attorney**  
**167 N. Main, Suite 800**  
**Memphis, TN 38103**

**Patricia Head Moskal, Esq.**  
**1600 Division Street, Suite 700**  
**Nashville, TN 37203**

This 20<sup>th</sup> day of August, 2010.

s/ Kathleen L. Caldwell  
Certifying Attorney